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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,463	10/07/2005	Agostino Di Trapani	Q85687	5533
23373 7590 05/15/2008 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER				
FONSECA, JESSIE T				
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05/15/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/520,463

Applicant(s)

DI TRAPANI, AGOSTINO

Examiner

JESSIE FONSECA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-55 is/are pending in the application.
4a) Of the above claim(s) 46 and 48-52 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 38-45, 47 and 53-55 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/11/08 has been entered.

Election/Restrictions

Upon examination of the claims, claim 53 directed to the combination of the tool and block reads on the elected embodiment. Accordingly claim 53 has been rejoined and will be examined.

Claim Objections

Claims 38 and 53 are objected to because of the following informalities:

Claim 38 (last 2 lines): It's unclear as to why it's necessary to include both the terms "alignment" and "plumb" as they both refer to the straightening of the construction elements with one another.

Claim 53 (last 2 lines): It's unclear as to why it's necessary to include both the terms "alignment" and "plumb alignment" as they both refer to the straightening of the construction elements with one another.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 38-44 and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by Frost (US 1,197,815).

With regards to claim 38 and 41: Frost discloses a wall (fig. 1) constructed from a plurality of construction elements (M) made of concrete like material (clay) (par. 2, lines 118-123). It is noted that block of Frost is considered a concrete-like material as it made of moldable material that is cured to a hardened state.

Frost discloses each construction element (M) comprising an upper face, a lower face, and lateral faces, the construction element (M) comprising at least one groove (15) extending over the upper face thereof, the groove (15) being associated with a load-bearing wall or partition (4) of the construction element (M) and arranged at a distance from an outer lateral edge of the construction element (M), the construction element (M) further comprising at least one protuberance (6), which extends over the lower face thereof, the protuberance (6) being arranged in such a way that when a first construction element (M) of the plurality is superimposed on a second construction element (M) of the plurality within the wall, the protuberance (6) of the first construction element (M) extends in the groove (15) of the second construction element (M) (fig. 2),

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the protuberance (M) of the first construction element penetrates partially into the groove (15) of the second construction elements, the construction elements (M) being assembled to one another within the wall by means of a binder (10), the binder (10) being applied in the groove in such a way that a strip of the binder is formed between the upper face and the lower face of the construction elements (M), the strip forming the sole contact between the two superimposed elements, thereby enabling an adjustment of the alignment, of the height, and plumb of each of the plurality of construction elements (fig. 2).

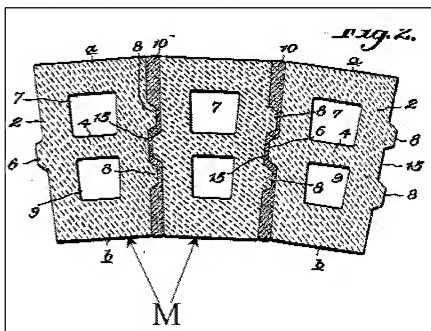


Fig 2: Frost (US 1,197,815)

With regards to claim 39 and 42: Frost further discloses the protuberance (6) and the groove (15) have a cross-section, which is approximately trapezoidal in shape (fig. 2), in such a way that, a protuberance lateral flank of the first construction element (M) extends approximately parallel to a groove lateral flank of the second

construction element (M) (fig. 2), and a small base of the trapezoid of the protuberance (6) being arranged opposite a small base of the trapezoid of the groove (15) when they are engaged (fig. 2). the lateral flanks being arranged in such a way as to leave a second space between them, filled by the binder (10).

With regards to claim 40 and 43: The ratio of the weight of the construction element (M) to the surface area of the small base of the trapezoidal of protuberance (6) will inherently be inversely proportional to the fluidity of the binder, as the binder is capable of supporting and allowing for the alignment of the construction elements.

With regards to claim 44: Frost further discloses the depth of the groove (15) and a height of protuberance (6) are approximately equal and proportional to a tolerance which is to be accommodated with each construction element (M) (fig. 2)

With regards to claim 55: Frost further discloses further discloses a plurality of construction elements (M), where the wall extends a thin joint between construction elements (fig. 2).

Claims 38-44, 47 and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by Vigouroux (FR 1,271,506).

With regards to claim 38 and 41: Vigouroux discloses a wall (fig. 1) constructed from a plurality of construction elements (R) made of concrete like material. It is noted that block of Vigouroux is considered a concrete-like material as it made of moldable material that is cured to a hardened state to form a block.

Vigourroix further discloses the construction element (R) comprising an upper face, a lower face, and lateral faces, the construction element (R) comprising at least one groove (S) extending over the upper face thereof, the groove (S) being associated with a load-bearing wall or partition (T) of the construction element (R) and arranged at a distance from an outer lateral edge of the construction element (R), the construction element (R) further comprising at least one protuberance (W), which extends over the lower face thereof, the protuberance (W) being arranged in such a way that when a first construction element (R) of the plurality is superimposed on a second construction element (R) of the plurality within the wall, the protuberance (W) of the first construction element (R) extends in the groove (S) of the second construction element (R) (fig. 1), the protuberance (W) of the first construction element penetrates partially into the groove (S) of the second construction elements, the construction elements (R) being assembled to one another within the wall by means of a binder (X), the binder (X) being applied in the groove (S) in such a way that a strip of the binder (X) is formed between the upper face and the lower face of the construction elements (R), the strip forming the sole contact between the two superimposed elements, thereby enabling for the adjustment of the alignment, of the height, and plumb of each of the plurality of construction elements (fig. 1).

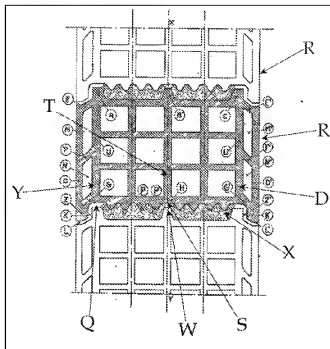


Fig. 1: Vigouroux (FR 1,271,506)

With regards to claim 39 and 42: Vigouroux further discloses the protuberance (W) and the groove (S) have a cross-section, which is approximately trapezoidal in shape (fig. 1), in such a way that, a protuberance lateral flank of the first construction element (R) extends approximately parallel to a groove lateral flank of the second construction element (R) (fig. 1), and a small base of the trapezoid of the protuberance (W) being arranged opposite a small base of the trapezoid of the groove (S) when they are engaged (fig. 1), the lateral flanks being arranged in such a way as to leave a second space between them, filled by the binder (X) (fig. 1).

With regards to claim 40 and 43: The ratio of the weight of the construction element (R) to the surface area of the small base of the trapezoidal of protuberance (W) will inherently be inversely proportional to the fluidity of the binder.

With regards to claim 44: Vigouroux further discloses the depth of the groove (S) and a height of protuberance (W) are approximately equal and proportional to a tolerance which is to be accommodated with each construction element (R) (fig. 1)

With regards to claim 47: Vigouroux further discloses the construction element (R) has a plurality of load-bearing walls or partitions (Y, T, O), and wherein the groove (Q,S,Y) is arranged above each of the load-bearing walls or partitions (Y,T, O) of said plurality (fig. 1).

With regards to claim 55: Vigouroux further discloses a plurality of construction elements (R), where the wall extends a thin join between construction elements (fig.1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frost (US 1,197,815) in view of Hanner (US 2,821,426).

With regards to claim 53: Frost discloses everything previously mentioned, but fails to disclose in combination, a tool intended for lifting the construction element, wherein the tool is dimensioned so as to allow for the lifting, handling,

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laying and adjusting the alignment, height, and plumb alignment of the construction element.

However, Hanner discloses a tool (18) for the carrying of blocks for ease of handling (figs. 1-5).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of Frost to include a tool as taught by Hanner in order to provide means to carrying blocks for ease of handling and transport.

Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vigouroux (FR 1,271,506) in view of Hanner (US 2,821,426).

With regards to claim 53: Vigouroux discloses everything previously mentioned, but fails to disclose in combination, a tool intended for lifting the construction element, wherein the tool is dimensioned so as to allow for the lifting, handling, laying and adjusting the alignment, height, and plumb alignment of the construction element.

However, Hanner discloses a tool (18) for the carrying of blocks for ease of handling (figs. 1-5).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of Vigouroux to include a tool as taught by Hanner in order to provide means to carrying blocks for ease of handling and transport.

Claim 54 rejected under 35 U.S.C. 103(a) as being unpatentable over Vigouroux (FR 1,271,506) and in view of Herzog (FR 509431) and Huberty (US 2002/0038532 A1).)

With regards to claim 54: Vigouroux discloses everything previously mentioned including each construction element having a predetermined height, length and width dimension, but does explicitly disclose the height being greater than or equal to the length.

However, to adjust the dimensions of a construction to have particular dimensions is well known in the art. For example, Herzog discloses a block have a height being greater than or equal to the length (figs. 1-3).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the construction elements of Vigouroux to have the height being greater than or equal to the width as taught by Herzog in order to provide a block dimensioned to fit in a desired area and configuration. It is noted that it is widely known in that art the lintels are typically found in walls, above portals such as windows or doorways so as to provide structural support. Further, no new or unpredictable results would be expected to include a portal in wall, where a lintel is used for additional support. To have a block of particular dimension designed to fit a particular area would have been obvious, as a person with ordinary skill in the art at the time of the invention was has good reason to pursue the known option within his or her own technical grasp.

Vigouroux, in view of Herzog, discloses everything previously mentioned, but fails to disclose the construction elements having a weight which is less than or equal to 25 kg.

However, Huberty discloses a construction element (5) having a weight of 4 kg and 8.5kg, which is less than 25 kg (par. 0079).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the construction element of Vigouroux, in view of Herzog, to have weight less than 25 kg as taught by Huberty in order to provide a construction element that is light weight for ease of transport and handling.

Claims 38, 41, 44-45, 47, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breaky (US 2,162,417).

With regards to claim 38 and 41: Breaky discloses a wall (figs. 3 & 5) constructed from a plurality of construction elements (10) made of concrete like material. It is noted that block of Breaky is considered a concrete-like material as it made of moldable material that is cured to a hardened state.

Breaky further discloses each construction element (10) comprising an upper face, a lower face, and lateral faces, the construction element (10) comprising at least one groove (15, 16) extending over the upper face thereof, the groove (15, 16) being associated with a load-bearing wall or partition of the construction element (10) and arranged at a distance from an outer lateral edge of the construction

element (10), the construction element (10) further comprising at least one protuberance (AA), which extends over the lower face thereof, the protuberance (AA) being arranged in such a way that when a first construction element (10) of the plurality is superimposed on a second construction element (10) of the plurality within the wall, the protuberance (AA) of the first construction element (10) extends in the groove of the second construction element (10) (fig. 3), the protuberance of the first construction element penetrates partially into the groove of the second construction elements.

It is noted that one of ordinary skill in the art at the time of the invention would recognize the protuberance extending into the groove is dependent on the thickness of the mortar applied (col. 4, lines 68-75). Less mortar will obviously result in the protuberance extending into the groove.

the construction elements (10) being assembled to one another within the wall by means of a binder (19), the binder being applied in the groove (15,16) in such a way that a strip of the binder is formed between the upper face and the lower face of the construction elements, the strip forming the sole contact between the two superimposed elements, thereby enabling an adjustment of the alignment, of the height, and plumb of each of the plurality of construction elements.

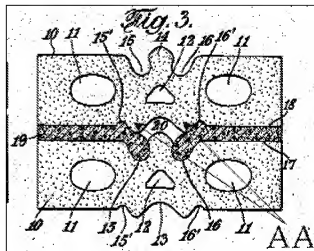


Fig. 3: Breaky (US 2,162,417)

With regards to claim 44: Breaky further discloses the depth of the groove (AA) and a height of protuberance (10) are approximately equal and proportional to a tolerance which is to be accommodated with each construction element (10) (fig. 3)

With regards to claim 45: Breaky further discloses the width of the groove (15) of the construction element (10) is less than the thickness of the load-bearing wall or partition of the construction element (10) (fig. 3).

With regards to claim 47: Breaky further discloses the construction element (10) has a plurality of load-bearing walls or partitions, and wherein the groove (15) is arranged above each of the load-bearing walls or partitions of the plurality (fig. 3).

With regards to claim 55: Breaky further discloses a plurality of construction elements (10), where the wall extends a thin join between construction elements (fig. 3).

Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Breaky (US 2,162,417) in view of Hanner (US 2,821,426).

With regards to claim 53: Breaky discloses everything previously mentioned, but fails to disclose in combination, a tool intended for lifting the construction element, wherein the tool is dimensioned so as to allow for the lifting, handling, laying and adjusting the alignment, height, and plumb alignment of the construction element.

However, Hanner discloses a tool (18) for the carrying of blocks for ease of handling (figs. 1-5).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of Breaky to include a tool as taught by Hanner in order to provide means to carrying blocks for ease of handling and transport.

Claim 54 rejected under 35 U.S.C. 103(a) as being unpatentable over Breaky (US 2,162,417) and in view of Herzog (FR 509431) and Huberty (US 2002/0038532 A1).

With regards to claim 54: Breaky discloses everything previously mentioned including each construction element having a predetermined height, length and width dimension, but does explicitly disclose the height being greater than or equal to the length.

However, to adjust the dimensions of a construction to have particular dimensions is well known in the art. For example, Herzog discloses a block have a height being greater than or equal to the length (figs. 1-3).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the construction elements of Breaky to have the height being greater than or equal to the width as taught by Herzog in order to provide a block dimensioned to fit in a desired area and configuration. It is noted that it is widely known in that art the lintels are typically found in walls, above portals such as windows or doorways so as to provide structural support. Further, no new or unpredictable results would be expected to include a portal in wall, where a lintel is used for additional support. To have a block of particular dimension designed to fit a particular area would have been obvious, as a person with ordinary skill in the art at the time of the invention was has good reason to pursue the known option within his or her own technical grasp.

Breaky, in view of Herzog, discloses everything previously mentioned, but fails to disclose the construction elements having a weight which is less than or equal to 25 kg.

However, Huberty discloses a construction element (5) having a weight of 4 kg and 8.5kg, which is less than 25 kg (par. 0079).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the construction element of Breaky, in view

of Herzog, to have weight less than 25 kg as taught by Huberty in order to provide a construction element that is light weight for ease of transport and handling.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

The rejection of claims 38-45, 47, and 54-55 under 35 U.S.C. 112, second paragraph has been withdrawn in view of the amendment filed 2/6/08.

The objection of claim 54 has been withdrawn in view of the amendment filed 2/6/08.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to 0463 whose telephone number is (571)272-7195. The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Canfield can be reached on (571)272-6840. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. F./

Examiner, Art Unit 3633

/Robert J Canfield/

Supervisory Patent Examiner, Art Unit 3635